

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

VICKIE ADAMS, as Independent Executrix
of the ESTATE OF JACK WILSON and
Independent Executrix of the
ESTATE OF DELORIS WILSON,

Plaintiff,

V.

THOMAS PURVES and
W.D. KERR & SONS, INC.,
a Pennsylvania Corporation,

Defendants.

[illegible]

Case No. 3:10-cv-00055-GPM-PMF

COMPLAINT AND DEMAND FOR JURY TRIAL

Count I
Purves – Illinois Wrongful Death Act
(Estate of Jack Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant Thomas Purves, pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, *et. seq.*, alleges as follows:

1. Plaintiff is the Independent Executrix of the Estate of Jack Wilson, having been so appointed by the Circuit Court of Johnson County, Illinois, on August 25, 2009, and is the daughter of Jack Wilson, deceased.

2. Prior to his death, Jack Wilson was a resident of the State of Illinois and lived in the vicinity of Vienna, Illinois. The Estate of Jack Wilson is pending in the Circuit Court of Johnson County, Illinois, Cause No. 09-P-24.

3. Defendant Thomas Purves (hereafter "Purves") is a citizen of the State of Pennsylvania.

4. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332.

6. On August 13, 2009, at approximately 9:10 a.m., Purves was operating a 2007 Kenworth Tractor towing a 120 foot long I Beam, VIN #1XKDD49X37J184338, southbound on the I-57 exit ramp at Milepost 18 (Ullin Exit) and was attempting to make a left (east) turn onto Shawnee College Road (County Road 7) in the City of Ullin, Pulaski County, Illinois.

7. At the aforesaid time and place, it was the duty of Purves to exercise ordinary care for the safety of all persons traveling upon the roadway.

8. At the place aforestated, Shawnee College Road is a two lane divided highway with exit and entrance ramps to I-57 South and North.

9. On August 13, 2009, at approximately 9:10 a.m., Jack Wilson was operating a 2000 Chevrolet Silverado, VIN #1GCGC29U6YE229529, eastbound on Shawnee College Road (County Road 7) in the City of Ullin, Pulaski County, Illinois, and approaching the I-57 exit ramps.

10. At that date, time and location, Purves:

- a) Negligently blocked both lanes of traffic with an oversize load;
- b) Failed to properly stop at a traffic control device;
- c) Failed to yield to the right of way of oncoming traffic;

- d) Failed to keep a proper lookout;
- e) Negligently performed an improper backing maneuver on a highway; and
- f) Failed to have proper escorts when moving an oversize load.

11. As a result of Purves blocking the lanes of traffic on Shawnee College Road, Jack Wilson's vehicle struck the I-Beam which Purves was hauling, causing extensive damage and injury to Jack Wilson.

12. As a direct and proximate result of the alleged occurrence:

- a) Jack Wilson suffered severe internal and external injuries which resulted in his death on August 20, 2009; and
- b) Jack Wilson became liable for medical bills and expenses of the alleged occurrence, which became a liability of his estate upon his death.

WHEREFORE, Plaintiff, Vickie Adams, as Independent Executrix of the Estate of Jack Wilson, prays for a judgment against Defendant Thomas Purves pursuant to the terms and conditions of the Illinois Wrongful Death Act, 740 ILCS 180/1, *et seq.*, in an amount in excess of \$75,000.00, plus costs of suit.

Count II
Purves – Illinois Survival Act
(Estate of Jack Wilson)

NOW COMES the Plaintiff, Vickie Adams, Executor of the Estate of Jack Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant Thomas Purves pursuant to the Illinois Survival Act, 755 ILCS 5/27-6, alleges as follows:

13. – 24. Plaintiff repeats and realleges paragraphs 1-12 of Count I as and for paragraphs 13–24 of Count II.

WHEREFORE, the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, prays for judgment against the Defendant Thomas Purves pursuant to the terms and conditions of the Illinois Survival Act, 755 ILCS 5/27-6, for an amount in excess of Seventy-Five Thousand Dollars (\$75,000).

Count III
Purves – Illinois Family Expense Act
(Deloris Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant Thomas Purves, pursuant to the Family Expense Act, 750 ILCS 65/15 alleges as follows:

25. - 36. Plaintiff repeats and realleges paragraphs 1 - 12 of Count I as and for paragraphs 25-36 of Count III.

37. Jack Wilson was the husband of Deloris Wilson.

38. As wife of Jack Wilson, Deloris Wilson became liable for the expenses of necessary medical care, treatment and services for Jack Wilson, including all medical bills relating to the occurrence.

WHEREFORE, Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, prays for judgment against the Defendant Thomas Purves pursuant to the terms and conditions of the Family Expense Act, 750 ILCS 65/15, for an amount in excess of Seventy-Five Thousand Dollars (\$75,000) plus costs of suit.

Count IV
W.D. Kerr & Sons – Illinois Wrongful Death Act
(Estate of Jack Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant W.D. Kerr & Sons, pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, *et seq.*, alleges as follows:

39. Plaintiff is the Independent Executrix of the Estate of Jack Wilson, having been so appointed by the Circuit Court of Johnson County, Illinois, on August 25, 2009, and is the daughter of Jack Wilson, deceased.

40. Prior to his death, Jack Wilson was a resident of the State of Illinois and lived in the vicinity of Vienna, Illinois. The Estate of Jack Wilson is pending in the Circuit Court of Johnson County, Illinois, Cause No. 09-P-24.

41. Defendant W.D. Kerr & Sons, Inc. (hereafter “Kerr & Sons”) is a corporation incorporated under the laws of the State of Pennsylvania, having its principal place of business in Sewickley, Pennsylvania.

42. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.

43. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332.

44. At all times relevant hereto, Defendant Thomas Purves (hereafter “Purves”) was an employee and agent of Kerr & Sons.

45. On August 13, 2009, at approximately 9:10 a.m., Purves was operating a 2007 Kenworth Tractor towing a 120 foot long I Beam, VIN # 1XKDD49X37J184338, on

behalf of and as agent for Kerr & Sons, southbound on the I-57 exit ramp at Milepost 18 (Ullin Exit) and was attempting to make a left (east) turn onto Shawnee College Road (County Road 7) in the city of Ullin, Pulaski County, Illinois.

46. At the aforesaid time and place, it was the duty of Kerr & Sons to supervise and control its employee and agent, Purves, to exercise ordinary care for the safety of all persons traveling upon the roadway.

47. At the place aforesaid, Shawnee College Road is a two lane divided highway with exit and entrance ramps to I-57 South and North.

48. On August 13, 2009, at approximately 9:10 a.m., Jack Wilson was operating a 2000 Chevrolet Silverado, VIN #1GCGC29U6YE229529, eastbound on Shawnee College Road (County Road 7) in the City of Ullin, Pulaski County, Illinois, and approaching the I-57 exit ramps.

49. At that date, time and location, Kerr & Sons had a duty to supervise and control its employee and agent's, Purves', actions while he was operating a tractor trailer on its behalf. Said duty included the following:

- a) Duty to properly escort the tractor trailer;
- b) Duty to properly flag an oversize load;
- c) Duty to provide Purves with the proper permits for an oversize load;
- d) Duty to supervise Purves to make certain that there are no violations of the Illinois Vehicle Code; and
- e) Duty to supervise its agent, Purves, for the safety of all persons traveling on the roadway.

50. As a result of Kerr & Sons' employee and agent, Purves, blocking the lanes of traffic on Shawnee College Road, Jack Wilson's vehicle struck the I-Beam

Purves was hauling on behalf of Kerr & Sons, causing extensive damage and injury to Jack Wilson.

51. As a direct and proximate result of the alleged occurrence:

- a) Jack Wilson suffered severe internal and external injuries which resulted in his death on August 20, 2009; and
- b) Jack Wilson became liable for medical bills and expenses of the alleged occurrence, which became a liability of his estate upon his death.

WHEREFORE, Plaintiff Vickie Adams, as Independent Executrix of the Estate of Jack Wilson, prays for a judgment against Defendant W.D. Kerr & Sons, Inc. pursuant to the terms and conditions of the Illinois Wrongful Death Act, 740 ILCS 180/1, *et seq.*, in an amount in excess of \$75,000.00, plus costs of suit.

Count V
W.D. Kerr & Sons – Illinois Survival Act
(Estate of Jack Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant W.D. Kerr & Sons, Inc., pursuant to the Illinois Survival Act, 755 ILCS 5/27-6, alleges as follows:

52. - 64. Plaintiff repeats and realleges paragraphs 39-51 of Count IV as and for paragraphs 52-64 of Count V.

WHEREFORE, the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, prays for judgment against the Defendant W.D. Kerr & Sons, Inc., pursuant to the terms and conditions of the Illinois Survival Act, 755 ILCS 5/27-6, for an amount in excess of Seventy-Five Thousand Dollars (\$75,000).

Count VI
W.D. Kerr & Sons – Illinois Family Expense Act
(Deloris Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant W.D. Kerr & Sons, Inc., pursuant to the Illinois Family Expense Act, 750 ILCS 65/15, alleges as follows:

65. - 77. Plaintiff repeats and realleges paragraphs 39-51 of Count IV as and for paragraphs 65-77 of Count VI.

78. Jack Wilson was the husband of Deloris Wilson.

79. As wife of Jack Wilson, Deloris Wilson became liable for the expenses of necessary medical care, treatment and services for Jack Wilson, including all medical bills relating to the occurrence.

WHEREFORE, Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, prays for judgment against the Defendant W.D. Kerr & Sons, Inc. pursuant to the terms and conditions of the Illinois Family Expense Act, 750 ILCS 65/15, for an amount in excess of Seventy-Five Thousand Dollars (\$75,000) plus costs of suit.

Count VII
Purves – Illinois Wrongful Death Act
(Estate of Deloris Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant Thomas Purves, pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, *et seq.*, alleges as follows:

80. Plaintiff is the Independent Executrix of the Estate of Deloris Wilson, having been so appointed by the Circuit Court of Johnson County, Illinois, on August 25, 2009, in Cause No. 09-P-23, and is the daughter of Deloris Wilson, deceased.

81. Prior to her death, Deloris Wilson was a resident of the State of Illinois and lived in the vicinity of Vienna, Illinois. The Estate of Deloris Wilson is pending in the Circuit Court of Johnson County, Illinois, Cause No. 09-P-23.

82. Defendant Thomas Purves (hereafter "Purves") is a citizen of the State of Pennsylvania.

83. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.

84. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332.

85. On August 13, 2009, at approximately 9:10 a.m., Purves was operating a 2007 Kenworth Tractor towing a 120 foot long I Beam, VIN # 1XKDD49X37J184338, southbound on the I-57 exit ramp at Milepost 18 (Ullin Exit) and was attempting to make a left (east) turn onto Shawnee College Road (County Road 7) in the City of Ullin, Pulaski County, Illinois.

86. At the aforesaid time and place, it was the duty of Purves to exercise ordinary care for the safety of all persons traveling upon the roadway.

87. At the place aforestated, Shawnee College Road is a two lane divided highway with exit and entrance ramps to I-57 South and North.

88. On August 13, 2009, at approximately 9:10 a.m., Deloris Wilson was riding as a passenger in a 2000 Chevrolet Silverado, VIN #1GCGC29U6YE229529, being

operated by Jack Wilson eastbound on Shawnee College Road (County Road 7) in the City of Ullin, Pulaski County, Illinois, and approaching the I-57 exit ramps.

89. At that date, time and location, Purves:

- a) Negligently blocked both lanes of traffic with an oversize load;
- b) Failed to properly stop at a traffic control device;
- c) Failed to yield to the right of way of oncoming traffic;
- d) Failed to keep a proper lookout;
- e) Negligently performed an improper backing maneuver on a highway; and
- f) Failed to have proper escorts when moving an oversize load.

90. As a result of Purves blocking the lanes of traffic on Shawnee College Road, Jack Wilson's vehicle struck the I-Beam which Purves was hauling, causing extensive damage and injury to Deloris Wilson.

91. As a direct and proximate result of the alleged occurrence:

- a) Deloris Wilson suffered severe internal and external injuries which resulted in her death on August 14, 2009; and
- b) Deloris Wilson became liable for medical bills and expenses of the alleged occurrence.

WHEREFORE, Plaintiff, Vickie Adams, as Independent Executrix of the Estate of Deloris Wilson, prays for a judgment against Defendant Thomas Purves pursuant to the terms and conditions of the Illinois Wrongful Death Act, 740 ILCS 180/1, *et seq.*, in an amount in excess of \$75,000.00, plus costs of suit.

Count VIII
Purves – Illinois Survival Act
(Estate of Deloris Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant Thomas Purves pursuant to the Illinois Survival Act, 755 ILCS 5/27-6, alleges as follows:

92. - 103. Plaintiff repeats and realleges paragraphs 80-91 of Count VII as and for paragraphs 92-103 of Count VIII.

WHEREFORE, the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, prays for judgment against the Defendant Thomas Purves pursuant to the terms and conditions of the Illinois Survival Act, 755 ILCS 5/27-6, for an amount in excess of Seventy-Five Thousand Dollars (\$75,000).

Count IX
Purves – Illinois Family Expense Act
(Jack Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant Thomas Purves, pursuant to the Illinois Family Expense Act, 750 ILCS 65/15, alleges as follows:

104. - 115. Plaintiff repeats and realleges paragraphs 80-91 of Count VIII as and for paragraphs 104-115 of Count IX.

116. Deloris Wilson was the wife of Jack Wilson.

117. As husband of Deloris Wilson, Jack Wilson became liable for the expenses of necessary medical care, treatment and services for Deloris Wilson, including all medical bills relating to the occurrence and her resultant funeral bill.

WHEREFORE, Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, prays for judgment against the Defendant Thomas Purves pursuant to the terms and conditions of the Illinois Family Expense Act, 750 ILCS 65/15, for an amount in excess of Seventy-Five Thousand Dollars (\$75,000).

Count X
W.D. Kerr & Sons – Illinois Wrongful Death Act
(Estate of Deloris Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant W.D. Kerr & Sons, pursuant to the Illinois Wrongful Death Act, 740 ILCS 180/1, *et seq.*, alleges as follows:

118. Plaintiff is the Independent Executrix of the Estate of Deloris Wilson, having been so appointed by the Circuit Court of Johnson County, Illinois, on August 25, 2009, in Cause No. 09-P-23, and is the daughter of Deloris Wilson, deceased.

119. Prior to her death, Deloris Wilson was a resident of the State of Illinois and lived in the vicinity of Vienna, Illinois.

120. Defendant W.D. Kerr & Sons, Inc. (hereafter "Kerr & Sons") is a corporation incorporated under the laws of the State of Pennsylvania, having its principal place of business in Sewickley, Pennsylvania.

121. The matter in controversy exceeds, exclusive of interest and costs, the sum of \$75,000.00.

122. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332.

123. At all times relevant hereto, Defendant Thomas Purves (hereafter "Purves") was an employee and agent of Kerr & Sons.

124. On August 13, 2009, at approximately 9:10 a.m., Purves was operating a 2007 Kenworth Tractor towing a 120 foot long I Beam, VIN #1XKDD49X37J184338, on behalf of and as agent for Kerr & Sons, southbound on the I-57 exit ramp at Milepost 18 (Ullin Exit) and was attempting to make a left (east) turn onto Shawnee College Road (County Road 7) in the city of Ullin, Pulaski County, Illinois.

125. At the aforesaid time and place, it was the duty of Kerr & Sons to supervise and control its employee and agent, Purves, to exercise ordinary care for the safety of all persons traveling upon the roadway.

126. At the place aforestated, Shawnee College Road is a two lane divided highway with exit and entrance ramps to I-57 South and North.

127. On August 13, 2009, at approximately 9:10 a.m., Deloris Wilson was riding as a front seat passenger in a 2000 Chevrolet Silverado, VIN #1GCGC29U6YE229529, operated by Jack Wilson eastbound on Shawnee College Road (County Road 7) in the City of Ullin, Pulaski County, Illinois, and approaching the I-57 exit ramps.

128. At that date, time and location, Kerr & Sons had a duty to supervise and control its employee and agent's, Purves', actions while operating a tractor trailer on its behalf. Said duty included the following:

- a) Duty to properly escort the tractor trailer,
- b) Duty to properly flag an oversize load;

- c) Duty to provide Purves with the proper permits for an oversize load;
- d) Duty to supervise Purves to make certain that there are no violations of the Illinois Vehicle Code; and
- e) Duty to supervise its agent, Purves, for the safety of all persons traveling on the roadway.

129. As a result of Kerr & Sons' employee and agent, Purves, blocking the lanes of traffic on Shawnee College Road, Jack Wilson's vehicle struck the I-Beam which Purves was hauling on behalf of Kerr & Sons, causing extensive damage and injury to Deloris Wilson.

130. As a direct and proximate result of the alleged occurrence:

- a) Deloris Wilson suffered severe internal and external injuries which resulted in her death on August 14, 2009; and
- b) Deloris Wilson became liable for medical bills and expenses of the alleged occurrence.

WHEREFORE, Plaintiff Vickie Adams, as Independent Executrix of the Estate of Deloris Wilson, prays for a judgment against Defendant W.D. Kerr & Sons, Inc. pursuant to the terms and conditions of the Illinois Wrongful Death Act, 740 ILCS 180/1, *et seq.*, in an amount in excess of \$75,000.00, plus costs of suit.

Count XI
W.D. Kerr & Sons – Illinois Survival Act
(Estate of Deloris Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant W.D. Kerr & Sons, Inc., pursuant to the Illinois Survival Act, 755 ILCS 5/27-6, alleges as follows:

131. – 143. Plaintiff repeats and realleges paragraphs 118-130 of Count X as and for paragraphs 131-143 of Count XI.

WHEREFORE, the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Deloris Wilson, prays for judgment against the Defendant W.D. Kerr & Sons, Inc. pursuant to the terms and conditions of the Illinois Survival Act, 755 ILCS 5/27-6, for an amount in excess of Seventy-Five Thousand Dollars (\$75,000).

Count XII
W.D. Kerr & Sons – Illinois Family Expense Act
(Jack Wilson)

NOW COMES the Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, by and through her attorney, Ronald E. Osman of Ronald E. Osman & Associates, Ltd., and for her Complaint against Defendant W.D. Kerr and Sons, Inc., pursuant to the Illinois Family Expense Act, 750 ILCS 65/15, alleges as follows:

144 – 156. Plaintiff repeats and realleges paragraphs 118 – 130 of Count X as and for paragraphs 144-156 of Count XII.

157. Deloris Wilson was the wife of Jack Wilson.

158. As husband of Deloris Wilson, Jack Wilson became liable for the expenses of necessary medical care, treatment and services for Deloris Wilson, including all medical bills relating to the occurrence and her resultant funeral bill.

WHEREFORE, Plaintiff, Vickie Adams, Independent Executrix of the Estate of Jack Wilson, prays for judgment against the Defendant W.D. Kerr & Sons, Inc. pursuant to the terms and conditions of the Illinois Family Expense Act, 750 ILCS 65/15, for an amount in excess of Seventy-Five Thousand Dollars (\$75,000).

REQUEST FOR TRIAL BY JURY

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand trial by jury.

RONALD E. OSMAN & ASSOCIATES, LTD.

By: /s/ Ronald E. Osman
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